

APPEAL NO. 020279  
FILED MARCH 19, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on January 16, 2002. With respect to the issues before him, the hearing officer determined that the appellant (claimant) did not sustain a compensable injury on \_\_\_\_\_, and that he did not have disability. The claimant appealed those determinations, arguing that the "medical opinions based on clinical examination were clear and convincing." In its response, the respondent (carrier) urges affirmance.

DECISION

Affirmed.

The claimant testified that he injured his low back working for the employer, when a spare tire he was trying to replace under the bed of a pickup fell, struck him in the head, broke his glasses, and caused him to jump back. The employer testified that there was no indication that the claimant was injured in such an incident at work. The claimant acknowledges in his appeal that conflicting testimony was provided from the witnesses about the alleged incident at work; however, he argues that the medical opinions "were clear and convincing" and that they established that he sustained a compensable injury.

The claimant had the burden to prove that he was injured in the course and scope of his employment and that he had disability. The 1989 Act makes the hearing officer the sole judge of the weight and credibility to be given to the evidence. Section 410.165(a). As the trier of fact, the hearing officer resolves conflicts and inconsistencies in the evidence and decides what facts the evidence has established. Texas Workers' Compensation Commission Appeal No. 950084, decided February 28, 1995. The finder of fact may believe that the claimant has an injury, but disbelieve the claimant's testimony that the injury occurred at work as claimed. Johnson v. Employers Reinsurance Corp., 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ). A fact finder is not bound by evidence from a doctor where the credibility of that evidence is manifestly dependent upon the credibility of the information imparted to the doctor by the claimant. Rowland v. Standard Fire Ins. Co., 489 S.W.2d 151 (Tex. Civ. App.-Houston [14th Dist.] 1972, writ ref'd n.r.e.). The Appeals Panel will not disturb the challenged factual findings of a hearing officer unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust and we do not find them so in this case. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **AMERICAN PROTECTION INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY  
800 BRAZOS  
AUSTIN, TEXAS 78701.**

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Elaine M. Chaney  
Appeals Judge

CONCUR:

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Chris Cowan  
Appeals Judge

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Philip F. O'Neill  
Appeals Judge